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| 30636 7590 07/30/2008 FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038 | | | | |
| EXAMINER | | | | |
| MAL, KEVIN S | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/800,452

Applicant(s)

BEACH ET AL.

Examiner

KEVIN S. MAI

Art Unit

2152

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 20-25, 27, 39 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 20-25, 27, 39 and 41-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action has been issued in response to Applicant's Amendment filed May 14, 2008.
2. Claims 7, 9-19, 26, 28-38 and 40 have been canceled. Claims 1, 20 and 39 have been amended. Claims 41-43 have been added. Claims 1-6, 8, 20-25, 27, 39 and 41-43 have been examined and are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 1-6, 8, 20-25, 27 and 39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-3, 8, 20-22, 27, 39 and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6507734 to Berger et al. (hereinafter "Berger"), and further in view of US Pat. No. 5652602 to Fishman et al. (hereinafter "Fishman").

8. **As to Claim 1, Berger discloses a method for configuring a mobile device, comprising:**

Berger does not explicitly disclose **receiving a video signal encoded with configuration data from an interface unit proximate the mobile device** (Column 2 lines 50 – 58 of Berger discloses transmitting a sound based on a security code (configuration data) at the base station (interface unit) and then receiving the sound at the handset (mobile device)); **and**

However, Fishman discloses this (Column 6 lines 19-40 of Fishman disclose programming a watch by holding its optical sensor in juxtaposition with a monitor screen)

It would have been obvious to one of ordinary skill in the art at the time of invention to combine programming a mobile device via audible signals as disclosed by Berger, with

programming a mobile device via video signals as disclosed by Fishman. One of ordinary skill in the art would have been motivated to combine in order to utilize another form of short range communication. Using various forms of short range communications each have their advantages and disadvantages, and so substituting one for the other as needs change is obvious. As such it is seen that it would have been obvious to substitute using audible signals with using video signals to configure the mobile device.

configuring the mobile device based on the configuration data (Column 2 lines 50 – 58 of Berger discloses establishing a radio frequency link between the handset and the base station utilizing the security code. This is seen to be configuring the handset based on the configuration data since the link is being established using the security code).

9. **As to Claim 2**, Berger-Fishman discloses the invention as claimed as described in claim 1, **further comprising initiating a connection between the mobile device and a communication network responsive to configuring the mobile device** (Column 2 lines 50 – 58 of Berger discloses establishing a radio frequency link between the handset and the base station utilizing the security code. The radio frequency link is seen to be the connection that is initiated between the mobile device and the communication network. Wherein this is representative of the scenario disclosed by the applicant where the interface unit may actually implement the network and the mobile device connects to the network through the interface unit for communication, as opposed to directly connecting to the network. Thus it is seen to be the same thing as connecting to the communication network).

10. **As to Claim 3**, Berger-Fishman discloses the invention as claimed as described in claim 2, **wherein the interface unit is coupled to the communication network** (Figure 1 of Berger discloses the base unit being connected to the telephone network), **and the method further comprises sending a confirmation message from the mobile device through the communication network to the interface unit responsive to initiating the connection** (Column 6 lines 5 – 10 of Berger discloses that in response to receiving the sound the handset transmits a signal over the radio frequency link to the base unit utilizing the security code. Wherein this is representative of the scenario disclosed by the applicant where the interface unit may actually implement the network and the mobile device connects to the network through the interface unit for communication, as opposed to directly connecting to the network. Thus it is seen that the sending the confirmation through the radio frequency link is the same as being sent through the network).

11. **As to Claim 8**, Berger-Fishman discloses the invention as claimed as described in claim 1, **wherein the mobile device comprises a headset having a sensor and the method further comprises receiving the video signal through the sensor** (Column 6 lines 19-40 of Fishman disclose programming a watch by holding its optical sensor in juxtaposition with a monitor screen).

Examiner recites the same rationale to combine used in claim 1.

12. **As to Claim 20**, Berger discloses a **mobile device, comprising:**

Berger does not explicitly disclose **a video sensor** (Column 5 lines 65 – 67 of Berger discloses that the transmitted security code is received by the microphone of the handset. Where the microphone is seen to be an audio sensor since it is picking up the security code that is transmitted via sound); **and**

However, Fishman discloses this (Column 6 lines 19-40 of Fishman disclose programming a watch by holding its optical sensor in juxtaposition with a monitor screen)

Examiner recites the same rationale to combine used in claim 1.

Berger does not explicitly disclose **a processing unit coupled the video sensor and adapted to receive a signal encoded with configuration data through the video sensor from an interface unit proximate the mobile device and configure the mobile device based on the configuration data** (Column 5 lines 9 – 20 of Berger discloses that the handset has a microprocessor for controlling the handsets functions. Then column 2 lines 50 – 58 of Berger disclose transmitting a sound based on a security code at the base station and then receiving the sound at the handset. Further column 2 lines 50 – 58 of Berger disclose establishing a radio frequency link between the handset and the base station utilizing the security code. Since it is the handset performing these functions it would be inherent that the handset's microprocessor would be responsible for these actions).

However, Fishman discloses this (Column 6 lines 19-40 of Fishman disclose programming a watch by holding its optical sensor in juxtaposition with a monitor screen)

Examiner recites the same rationale to combine used in claim 1.

13. **As to Claim 21**, Berger-Fishman discloses the invention as claimed as described in claim 20, wherein the processing unit is further adapted to initiate a connection with a communication network responsive to configuring the mobile device (Column 2 lines 50 – 58 of Berger discloses that the handset establishes a radio frequency link between the handset and the base station utilizing the security code. The radio frequency link is seen to be the connection that is initiated between the mobile device and the communication network. Wherein this is representative of the scenario disclosed by the applicant where the interface unit may actually implement the network and the mobile device connects to the network through the interface unit for communication, as opposed to directly connecting to the network. Thus it is seen to be the same thing as connecting to the communication network).

14. **As to Claim 22**, Berger-Fishman discloses the invention as claimed as described in claim 21, wherein the processing unit is further adapted to send a confirmation message through the connection with the communication network to the interface unit responsive to initiating the connection with the communication network (Column 6 lines 5 – 10 of Berger it is disclosed that in response to receiving the sound the handset transmits a signal over the radio frequency link to the base unit utilizing the security code. Wherein this is representative of the scenario disclosed by the applicant where the interface unit may actually implement the network and the mobile device connects to the network through the interface unit for communication, as opposed to directly connecting to the network).

15. **As to Claim 27**, Berger-Fishman discloses the invention as claimed as described in claim 20, wherein the mobile device comprises a headset having a sensor coupled to the processing unit, and the processing unit is further adapted to receive the signal through the sensor (Column 5 lines 65 – 67 of Berger discloses that the transmitted security code is received by the microphone of the handset, wherein the microphone is seen to be a sensor. The handset and headset are seen to be obvious variations of each other and at the time the invention was made it would have been obvious to one of ordinary skill in the art to interchange the handset and headset for added convenience to the user).

16. **As to Claim 39**, Berger discloses an apparatus, comprising:
Berger does not explicitly disclose means for receiving a video signal encoded with configuration data from an interface unit proximate a mobile device (Column 2 lines 50 – 58 of Berger discloses transmitting a sound based on a security code (configuration data) at the base station (interface unit) and then receiving the sound at the handset (mobile device)); and

However, Fishman discloses this (Column 6 lines 19-40 of Fishman disclose programming a watch by holding its optical sensor in juxtaposition with a monitor screen)

Examiner recites the same rationale to combine used in claim 1.
means for configuring the mobile device based on the configuration data (Column 2 lines 50 – 58 of Berger discloses establishing a radio frequency link between the handset and the base station utilizing the security code. This is seen to be configuring the handset based on the configuration data since the link is being established using the security code).

17. **As to Claim 41**, Berger-Fishman discloses the invention as claimed as described in claim 1, **wherein the receiving of the video signal includes detecting a visual pattern** (Column 6 lines 19-40 of Fishman disclose a sequence of optical patterns begin to flash across the monitor screen to optically transmit data to the mobile device).

Examiner recites the same rationale to combine used in claim 1.

18. **As to Claim 42**, Berger-Fishman discloses the invention as claimed as described in claim 41, **wherein the visual pattern includes a plurality of on-off flashes or a moving pattern** (Column 6 lines 19-40 of Fishman disclose a sequence of optical patterns begin to flash across the monitor screen to optically transmit data to the mobile device. Column 2 lines 16-29 disclose illuminated lines are binary '0' bits and non-illuminated lines are binary '1' bits).

Examiner recites the same rationale to combine used in claim 1.

19. **As to Claim 43**, Berger-Fishman discloses the invention as claimed as described in claim 20, **wherein the video sensor includes a photocell set** (Column 6 lines 12-18 of Fishman disclose the watch has an optical or IR sensor, these are both seen to inherently include photocell sets).

Examiner recites the same rationale to combine used in claim 1.

20. Claims 4-6 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger-Fishman, and further in view of "Wireless Headset HDW-2 Users's Guide" to Nokia (hereinafter "HDW-2 User Guide").

21. **As to Claim 4**, Berger-Fishman discloses the invention as claimed as described in claim 1. Berger-Fishman does not explicitly disclose **further comprising providing a confirmation signal to a user of the mobile device responsive to configuring the mobile device.**

However, HDW-2 User Guide discloses (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and appears in the phone menu to confirm that the configuration of the connection of the two devices is complete. This is seen to providing a confirmation signal to the user responsive to the configuration of the pairing)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of claim 1 as disclosed by Berger, with providing a confirmation signal to a user responsive to configuration as disclosed by HDW-2 User Guide. One of ordinary skill in the art would have been motivated to combine in order to inform the user that they can start using the headset (Page 12 of HDW-2 User Guide). Giving users confirmation of when a process is over so that they may act upon it is well-known and thus would have been obvious to try to implement in Berger's system.

22. **As to Claim 5**, Berger-Fishman-HDW-2 User Guide discloses the invention as claimed as described in claim 4, **wherein providing the confirmation signal further comprises providing an audible signal to the user** (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and

appears in the phone menu to confirm that the configuration of the connection of the two devices is complete. The beep is seen to be an audible signal to the user).

Examiner recites the same rationale to combine used in Claim 4.

23. **As to Claim 6**, Berger-Fishman-HDW-2 User Guide discloses the invention as claimed as described in claim 5, **wherein the mobile device comprises a headset having a speaker and providing the audible signal to the user comprises providing the audible signal through the speaker** (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and appears in the phone menu to confirm that the configuration of the connection of the two devices is complete. It is inherent that producing a beeping sound on the headset would come out through the earphone (disclosed on page 7 of HDW-2 User Guide) which is seen to be a speaker).

Examiner recites the same rationale to combine used in Claim 4.

24. **As to Claim 23**, Berger-Fishman discloses the invention as claimed as described in claim 20. Berger-Fishman does not explicitly disclose **wherein the processing unit is further adapted to provide a confirmation signal to a user of the mobile device responsive to configuring the mobile device**.

However, HDW-2 User Guide discloses (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and appears in the phone menu to confirm that the configuration of the connection of the two

devices is complete. This is seen to providing a confirmation signal to the user responsive to the configuration of the pairing)

Examiner recites the same rationale to combine used in Claim 4.

25. **As to Claim 24**, Berger-Fishman-HDW-2 User Guide discloses the invention as claimed as described in claim 23, **wherein the confirmation signal further comprises an audible signal** (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and appears in the phone menu to confirm that the configuration of the connection of the two devices is complete. The beep is seen to be an audible signal to the user).

Examiner recites the same rationale to combine used in Claim 4.

26. **As to Claim 25**, Berger-Fishman-HDW-2 User Guide discloses the invention as claimed as described in claim 24, **wherein the mobile device comprises a headset having a speaker, and the processing unit is further adapted to send the audible signal through the speaker** (Pages 11 – 12 of HDW-2 User Guide discloses pairing the Bluetooth headset with a phone. At the end of the pairing setup the headset beeps and appears in the phone menu to confirm that the configuration of the connection of the two devices is complete. It is inherent that producing a beeping sound on the headset would come out through the earphone (disclosed on page 7 of HDW-2 User Guide) which is seen to be a speaker).

Examiner recites the same rationale to combine used in Claim 4.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 7130647 – Cordless Telephone System

U.S. Pat. No. 7278084 – Method and System for Providing Communications Security

U.S. Pub. No. 2005/0015618 – System and Method for Establishing Authenticated Wireless Connection Between Mobile Unit and Host

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN S. MAI whose telephone number is (571)270-5001. The examiner can normally be reached on Monday through Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KSM

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146